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In re Application of: David Felger)
Application No. 09/432,811)
Filed: November 4, 1999) DECISION ON PETITION FOR
For: METHOD OF BILLING A) ACCELERATED
PURCHASE MADE OVER THE) EXAMINATION UNDER
INTERNET) M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed October 10, 2000 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, *will make an election without traverse* as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, *applicant will be notified and the defects in the request will be stated*. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission fails on multiple counts. The petition is deficient in that (1) there is no statement that applicant will make an election *without traverse* if the Office determines that all claims are not obviously directed to a single invention as required by section (b); (2) copies of the references have not been submitted; and (3) the discussion does not point out how the *claimed subject matter is patentable over the references*. That is, the detailed discussion does not have the particularity required by 37 CFR 1.111(b) and (c) because the comparison to the claims is a general statement that the entirety of Claim 1 is not taught or suggested by the reference,

Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

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